

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Case No. 1:07-cr-67-01

Plaintiff,

Hon. Richard Alan Enslen

v.

ROBERT LEE MOSHER,

Defendant.

ORDER

This matter is before the Court on Defendant Robert Lee Mosher's Motion for Ends of Justice Continuance pursuant to the Speedy Trial Act of 1974. 18 U.S.C. § 3161(h)(8). Currently, a final pretrial conference is scheduled for July 16, 2007, and jury trial is set to commence on July 24, 2007.

In support of his request for an ends-of-justice continuance, Defendant's counsel advises that Defendant is set to undergo rotator cuff surgery on or about July 17, 2007, and pursuant to his doctor's orders, Defendant will be "laid up" for two to four weeks post surgery. Defendant made his counsel aware of this surgery on June 25, 2007.¹ Defense counsel explains that Defendant has had multiple surgeries, has a degenerative back condition, has had five discs fused and uses a wheelchair to increase his mobility. Defense counsel requests the continuance on the grounds that Defendant, who has been extremely involved with his case, will be unable to review his "Jenks" material before trial because of his medical condition. The Government has not opposed the Motion.

Upon careful review, the Court finds that the ends-of-justice are best served by granting a continuance because the interests of the public and Defendant in seeing a speedy trial are outweighed

¹Defendant's counsel has also attached the "Certificate of Disability and Professional Care" attesting to the aforementioned facts.

by the equities set forth above. 18 U.S.C. § 3161(h)(8)(A). Specifically, the Court finds that otherwise denying Defendant's request would deprive Defendant of participation in the preparation of his trial by hindering his ability to review his "Jenks" material. *Id.* § 3161(h)(8)(A). Further, the Court recognizes the anesthetic and/or pain medications may effect Defendant such that his ability to be present or active in his trial and its preparation may be hindered. The Court notes Defendant has requested a two week continuance; however, the Court is unavailable during that time period. Therefore, the Court has rescheduled Defendant's pretrial conference and jury trial at its earliest convenience after that date.

THEREFORE, IT IS HEREBY ORDERED that Defendant Robert Lee Mosher's Motion For an Ends of Justice Continuance (Dkt. No. 29) is **GRANTED**.

IT IS FURTHER ORDERED that the pretrial conference currently scheduled for July 16, 2007 is rescheduled for September 10, 2007 at 12:00 p.m.

IT IS FURTHER ORDERED that the jury trial currently scheduled for July 24, 2007 is rescheduled for September 18, 2007 at 8:30 a.m.

Dated in Kalamazoo, MI:
July 2, 2007

/s/Richard Alan Enslen
Richard Alan Enslen
Senior United States District Judge